



National Aeronautics and  
Space Administration  
Washington, DC 20546

# Procurement Notice

**PN 97-83**  
**March 20, 2003**

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## **INTERAGENCY ACQUISITIONS -- AUTHORITY FOR USE**

**BACKGROUND:** This PN revises the NASA FAR Supplement to specify that the Space Act (42 U.S.C. 2473) is the authority for all NASA interagency acquisitions except those acquired under the authority of the Inspector General Act of 1978 for the NASA Office of the Inspector General. This rule further specifies that the requirements of the Economy Act will be applied to these acquisitions as a matter of policy. These changes will ensure greater clarity regarding the source and application of NASA's authority for interagency acquisitions.

**ACQUISITIONS AFFECTED BY CHANGES:** All NASA interagency acquisitions.

**ACTION REQUIRED BY CONTRACTING OFFICERS:** Effective March 20, 2003, cite the Space Act (42 U.S.C. 2473) as the authority on all interagency agreements and the corresponding determination and findings except those acquired under the authority of the Inspector General Act of 1978. Interagency acquisitions for the NASA Office of Inspector General must cite the authority of the Inspector General Act of 1978.

**CLAUSE CHANGES:** This PN makes no changes to clauses or provisions.

**PARTS AFFECTED:** Changes are made in Part 1817.

**REPLACEMENT PAGES:** You may use the enclosed pages to 17:1, 17:2, 17:3, 17:4, 17:5, and 17:6.

**TYPE OF RULE AND PUBLICATION DATE:** The PN was published as a final rule in the Federal Register (68 FR 13634) on March 20, 2003.

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Enclosures



**PART 1817**  
**SPECIAL CONTRACTING METHODS**

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## **PART 1817 SPECIAL CONTRACTING METHODS**

### **Subpart 1817.1--Multiyear Contracting**

#### **1817.105 Policy.**

##### **1817.105-1 Uses.**

(b) The Assistant Administrator for Procurement (Code HS) is the approval authority for the use of the multiyear contracting technique. Requests for approval shall be signed by the procurement officer and shall include a description of the acquisition, identification of anticipated contract costs and funding, and a determination, with supporting rationale, that each of the criteria in FAR 17.105-1(b) is met by the proposed use of multiyear contracting.

### **Subpart 1817.2--Options**

#### **1817.200 Scope of subpart.**

FAR Subpart 17.2 applies to all NASA contracts.

#### **1817.203 Solicitations.**

(g)(2) The procurement officer is authorized to approve option quantities greater than 50 percent.

#### **1817.204 Contracts.**

(e)(i) The 5-year limitation (basic plus option periods) applies to all NASA contracts regardless of type, except when the time needed to complete system development or hardware production is greater than five years.

(ii) Requests for deviations from the 5-year limitation policy shall be sent to the Assistant Administrator for Procurement (Code HS) and shall include justification for exceeding five years and evidence that the extended years can be reasonably priced.

#### **1817.206 Evaluation.**

(b)(i) The procurement officer is the approval authority for determinations by the contracting officer not to evaluate offers for any option quantities or periods.

(ii) Unless a determination has been approved under 1817.206(b)(i), the selection statement for each acquisition involving an option shall address the source selection authority's consideration of the option as part of the initial competition.

#### **1817.207 Exercise of options.**

(f) Options under cost type contracts shall contain an estimated cost for the option period(s).

(f)(2) Use of the provision (or formula) for determining the price of a fixed price option requires advance approval by the Assistant Administrator for Procurement (Code HS).

(f)(3)(ii) Use of a formula to determine the fee of an option in a cost-type contract requires advance approval of the Assistant Administrator for Procurement (Code HS). The formula shall preclude the contractor from increasing costs for the purpose of earning additional fee.

#### **1817.208 Solicitation provisions and contract clauses.**

(c)(3) The contracting officer shall insert a provision substantially the same as FAR 52.217-5 in cost reimbursement contracts when the other conditions of FAR 17.208(c) are met.

## **Subpart 1817.4--Leader Company Contracting**

### **1817.401 General.**

It is NASA policy not to use the leader company contracting technique.

## **Subpart 1817.5--Interagency Acquisitions Under the Economy Act**

### **1817.500 ~~Scope of —Determinations and findings requirements~~subpart.**

~~(ba) —See 1817.72 for additional information on interagency transaction requirements.~~

~~—(a) (2) Current market prices, recent acquisition prices, or prices obtained by informational submissions as provided in FAR 15.201 may be used to ascertain whether the acquisition can be accomplished more economically from commercial sources.~~

~~—(c) The Assistant Administrator for Procurement as the agency senior procurement executive will approve all D&F's for a servicing agency not covered by the Federal Acquisition Regulations. This approval may not be delegated below the senior procurement executive level.~~

### **1817.504 —Ordering procedures.**

~~(b) (4) All payment provisions shall require the servicing agency or department to submit a final voucher, invoice, or other appropriate payment document within six months after the completion date of the order. A different period may be specified by mutual agreement if six months is not sufficient.~~

## **Subpart 1817.70 --Acquisitions with Military Departments**

### **1817.7000 Scope of subpart.**

This subpart contains policies and procedures, developed jointly by NASA and DOD, for acquisition of supplies or services by NASA from or through the Military Departments.

### **1817.7001 Authorization and policy.**

(a) NASA is authorized by the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) to use the acquisition services, personnel, equipment, and facilities of the Military Departments, with their consent and with or without reimbursement, and, on a similar basis, to cooperate with the Military Departments in the use of acquisition services, equipment, and facilities.

(b) The Military Departments have agreed to cooperate fully with NASA in making their acquisition services, equipment, personnel, and facilities available on the basis of mutual agreement.

(c) The Military Departments have agreed not to claim reimbursement for administrative costs incident to acquisitions for NASA, except as may be otherwise agreed before the services are performed.

(d) When procuring supplies or services for NASA or performing field service functions in support of NASA contracts, the Military Departments have agreed to use their own methods, except when otherwise required by the terms of the agreement involved.

(e) The Military Departments normally will use their own funds when procuring supplies or services or performing services for NASA, and will not cite NASA funds on any Defense obligation or payment document.

**1817.7002 NASA-Defense Purchase Request and acceptance.**

(a) The NASA-Defense Purchase Request (NASA Form 523) shall be used by NASA contracting offices for requesting acquisition of supplies or services from all activities of the Military Departments. Individual NASA-Defense Purchase Requests shall be prepared in accordance with the instructions on the reverse of NASA Form 523 and shall be numbered in accordance with Subpart 1804.71. The form shall not be used for requesting --

(1) Block transfers of excess property between NASA and the Military Departments;

(2) Performance by the Military Departments of field service functions related to NASA contracts; or

(3) Items that the Military Departments normally purchase and stock for military use or in-house services, except when a DOD activity is willing to accept the form for these purposes. Supplies and services of this nature may be requisitioned using appropriate DOD forms when they are provided by and are acceptable to or preferred by the Military Department supplying activity or as otherwise mutually agreed upon by the parties.

(b) Include a provision in accordance with 1817.504(b)(4).

(c) To obtain materials from the Air Force Missile Procurement Fund, the contracting officer shall follow the procedures of 1808.002-72.

**1817.7002-1 Acceptance by Military Department.**

(a) Except as provided in paragraph (c) of this section, the Military Department concerned will, within 30 days after receipt of a NASA-Defense Purchase Request, forward to the initiator of the request an Acceptance of MIPR, DD Form 448-2. Each DD Form 448-2 will show the action being taken to fill the requirement and the name and complete address of the DOD contracting activity.

(b) To the extent feasible, all documents (including acceptances, contracts, correspondence, shipping documents, work or project orders, and Standard Form 1080 (Voucher for Transfer between Appropriations and/or Funds) billings) will reference the NASA-Defense Purchase Request number and the item number.

(c) Acceptance by the Military Department is not required for NASA-Defense Purchase Requests covering deliveries of common-use standard-stock items that the supplying agency has on hand or on order for prompt delivery at published prices.

**1817.7002-2 Changes in estimated total prices.**

When a Military Department determines that the estimated total price (Block 7, NASA Form 523) of the items to be acquired for NASA is not sufficient to cover the required reimbursement or is in excess of the amount required, a request for an amendment will be forwarded to the NASA originating office. The request will indicate a specific dollar amount, rather than a percentage, and will include justification for any upward adjustment requested. Upon approval of the request, the cognizant NASA contracting office shall forward to the DOD contracting activity an amendment to the NASA Defense Purchase Request.

**1817.7002-3 Payments.**

Except when agreements provide that reimbursement is not required, payments to the Military Departments shall be made by NASA office designated in block 9 of the NASA-Defense Purchase Request upon receipt of Standard Form 1080. Billings will be supported in the same manner as billings between Military Departments.

**1817.7002-4 Contract clause.**

The contracting officer shall insert the clause at 1852.217-70, Property Administration and Reporting, in any NASA-Defense Purchase Request when property will be involved.

## **Subpart 1817.71--Exchange or Sale of Personal Property**

### **1817.7101 Policy.**

(a) Section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384, as amended (40 U.S.C. 481(c)), authorizes the exchange or sale of Government personal property and the application of the exchange allowance or proceeds from sale to the acquisition of similar property for replacement purposes. The transaction must be evidenced in writing.

(b) NASA installations and contractors are authorized to conduct exchange/sale transactions as long as the requirements and restrictions of NPG 4300.1 and the Federal Property Management Regulations, Subchapter H, part 101-46, are followed. In conducting such exchanges/sales, NASA contractors must obtain the contracting officer's prior written approval and must report the transactions to the cognizant NASA installation Property Disposal Officer (PDO).

## **Subpart 1817.72--Interagency Transactions**

### **1817.7201 Policy.**

~~The Space Act (42 U.S.C. 2473) applies to NASA interagency acquisitions except those for the NASA Office of Inspector General acquired under the authority of the Inspector General Act of 1978 (5 U.S.C. Appendix III). NASA has elected to conform its implementation of the Space Act and the Inspector General Act to the requirements of the Economy Act (see FAR 17.5).~~

### **1817.7201 Policy.**

The Space Act (42 U.S.C. 2473) applies to NASA interagency acquisitions except those for the NASA Office of Inspector General acquired under the authority of the Inspector General Act of 1978 (5 U.S.C. Appendix III). NASA has elected to conform its implementation of the Space Act and the Inspector General Act to the requirements of the Economy Act (see FAR 17.5).

### **1817.7202 Determinations and findings requirements.**

(a) Interagency acquisitions shall be supported by a Determination and Finding (D&F) equivalent to that required for Economy Act transactions (see FAR 17.503). This requirement applies to all purchases of goods or services under contracts entered into or administered by agencies other than NASA including the Military Departments. The Space Act shall be cited as authority for all NASA interagency acquisitions except that the Inspector General Act shall be cited as the authority for interagency acquisitions for the NASA Office of Inspector General.

(b) To satisfy the D&F requirement identified in FAR 17.503(a)(2), current market prices, recent acquisition prices, or prices obtained by informational submissions as provided in FAR 15.201 may be used to ascertain whether the acquisition can be accomplished more economically from commercial sources.

(c) The determination described in paragraph (a) of this section is not required for contracts awarded under the Space Act to Government agencies pursuant to a Broad Agency Announcement when a review of the acquisition records would make it obvious that the award is not being used as a method of circumventing regulatory or statutory requirements, particularly FAR Part 6, Competition Requirements (e.g., when a significant number and value of awards made under the BAA are made to entities other than Government agencies).

(d) All D&F's for a servicing agency not covered by the FAR shall be approved by the Assistant Administrator for Procurement.

### **1817.7203 Ordering procedures.**

To satisfy the ordering procedures in FAR 17.504(b)(4), all payment provisions shall require the servicing agency or department to submit a final voucher, invoice, or other appropriate

payment document within six months after the completion date of the order. A different period may be specified by mutual agreement if six months is not sufficient.

## **Subpart 1817.73--Phased Acquisition**

### **1817.7300 Definitions.**

(a) **Down-selection.** In a phased acquisition, the process of selecting contractors for later phases from among the preceding phase contractors.

(b) **Phased Acquisition.** An incremental acquisition implementation comprised of several distinct phases where the realization of program/project objectives requires a planned, sequential acquisition of each phase. The phases may be acquired separately, in combination, or through a down-selection strategy.

(c) **Progressive Competition.** A type of down-selection strategy for a phased acquisition. In this method, a single solicitation is issued for all phases of the program. The initial phase contracts are awarded, and the contractors for subsequent phases are expected to be chosen through a down-selection from among the preceding phase contractors. In each phase, progressively fewer contracts are awarded until a single contractor is chosen for the final phase. Normally, all down-selections are accomplished without issuance of a new, formal solicitation.

### **1817.7301 Down-selections in phased acquisitions.**

#### **1817.7301-1 Pre-solicitation planning.**

(a) The rationale for the use of the down-selection technique shall be thoroughly justified in the acquisition planning requirement. Because the initial phase solicitation will also lead to subsequent phase award(s), the decision to use a down-selection strategy must be made prior to release of the initial solicitation. Accordingly, all phases must be addressed in the initial acquisition strategy planning and documented in the acquisition plan or ASM minutes.

(b) If there is no direct link between successful performance in the preceding phase and successful performance in a subsequent phase, down-selection is inappropriate. In this case, the phases should be contracted for separately without a down-selection.

(c) With one exception, both the initial and subsequent phase(s) of an acquisition down-selection process are considered to be full and open competition if the procedures in 1817.7301-4 and 1817.7301-5 (if using the progressive competition technique) are followed. If only one contractor successfully completed a given phase and no other offers are solicited for the subsequent phase, award of the subsequent phase may be made only if justified by one of the exceptions in FAR 6.302 or one of the exclusions in FAR 6.2, and only after compliance with the synopsis requirements of FAR 5.202 and 5.205 and 1804.570-2.

#### **1817.7301-2 Evaluation factors.**

A separate set of evaluation factors must be developed for each phase in a down-selection competition. Since these competitive down-selection strategies anticipate that a preceding phase contractor will be the subsequent phase contractor, the evaluation factors for initial phase award must specifically include evaluation of the offerors' abilities to perform all phases.